

Message Text

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62
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FM SECSTATE WASHDC

TO AMEMBASSY KUALA LUMPUR IMMEDIATE

INFO AMEMBASSY MANILA IMMEDIATE

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STADIS//////////

LIMDIS

E.O. 11652:GDS

TAGS: PFOR, PINS, RP, MY US

SUBJECT: BENJAMIN MAYNIGO AND GERARD JUMAT

REFS: A. KUALA LUMPUR 6767, B. STATE 227219

1. DEPARTMENT HAS EXAMINED EMBASSY'S REPORT REFTEL AND DATA PROVIDED BY MAYNIGO AND JUMAT ON FORMS FS-497 (KUALA LUMPUR 6780, 6781 AND 6782) WITH FOLLOWING PRELIMINARY REACTIONS. DATA FROM APPLICATIONS DOES NOT INDICATE THAT APPLICANTS ARE POTENTIALLY ELIGIBLE FOR NON-QUOTA STATUS OR FOR ANY PREFERENCE UNDER PHILIPPINE QUOTA FOR WHICH NUMBERS ARE CURRENTLY AVAILABLE (FIRST AND SECOND PREFERENCE ONLY). NORMAL IMMIGRANT VISA PROCEDURE THEREFORE NOT AN AVENUE WHICH COULD RESULT IN REASONABLY PROMPT

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ADMISSION TO U.S.

2. IN ABSENCE OF AVAILABLE NORMAL IMMIGRATION PROCEDURES, THE ONLY OTHER MEANS BY WHICH APPLICANTS COULD BE AUTHORIZED ADMISSION INTO THE U.S., AND ONE WHICH WOULD BE POTENTIALLY APPLICABLE ONLY IF APPLICANTS ARE IN DANGER OF BEING RETURNED BY THE GOM TO THE PHILIPPINES WHERE A QUESTION OF PERSECUTION MIGHT ARISE, WOULD BE THROUGH PAROLE AUTHORIZATION UNDER SECTION 212(D)(5) OF IMMIGRATION AND NATIONALITY ACT (INA). THIS IS A DISCRETIONARY

AUTHORITY WHICH RESTS WITH THE ATTORNEY GENERAL AND IS JUDICIOUSLY EXERCISED BY INS. EACH REQUEST IS CONSIDERED ON OWN MERITS. CRITERIA WHICH HAVE BEEN USED IN CONSIDERING CASE FOR PAROLE ARE THAT INDIVIDUAL IS IN IMMINENT DANGER OF BEING FORCIBLY RETURNED TO HIS COUNTRY OF NATIONALITY WHERE THE INDIVIDUAL'S LIFE OR FREEDOM IS THREATENED ON ACCOUNT OF RACE, RELIGION, NATIONALITY, MEMBERSHIP OF A PARTICULAR SOCIAL GROUP, OR POLITICAL OPINION, AND ALL OTHER ALTERNATIVES HAVE BEEN EXHAUSTED. IN DETERMINATION WHETHER THESE CRITERIA ARE APPLICABLE, JUDGMENT OF UNHCR REP IS IMPORTANT CONSIDERATION. FACT THAT A CASE MAY BE GIVEN PAROLE CONSIDERATION DOES NOT OBLIGATE THE U.S. TO TAKE THE INDIVIDUAL IN AND DOES NOT TRANSFER TO THE U.S. ANY RESPONSIBILITY FOR HIS WELFARE WHICH, AS IN ALL NORMAL REFUGEE CASES, REMAINS WITH HOST GOVERNMENT. UNHCR WOULD ALSO CONTINUE TO HAVE RESPONSIBILITY UNDER ITS MANDATE TO SHELTER AND PROTECT REFUGEES AGAINST FORCIBLE RETURN.

3. DEPARTMENT CONSIDERS THAT IF MAYNIGO AND JUMAT ARE NOT ALREADY IN CONTACT WITH UNHCR, THEY SHOULD BE ADVISED ESTABLISH SUCH CONTACT PROMPTLY IN ORDER ESTABLISH REFUGEE STATUS AND GAIN UNHCR PROTECTION. THIS STEP PARTICULARLY URGENT IF, AS RESULT POSSIBILE PUBLICITY IN CASE (SEPTEL), THERE IS DANGER THAT GOM WILL COME UNDER PRESSURE FROM GOP TO RETURN THEM. APPROACH TO UNHCR REP COULD USEFULLY INCLUDE REQUEST FOR UNHCR GOOD OFFICES TO PREVENT POSSIBLE RETURN TO PHILIPPINES, TEMPORARY ASSISTANCE AND REQUEST FOR UNHCR JUDGMENT AS TO WHAT NECESSARY TO REDUCE DANGER OF THEIR FORCED RETURN TO PHILIPPINES, E.G., POSSIBLE

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REMOVAL TO ANOTHER COUNTRY IF GOM UNWILLING TO ACCEPT THEM. FYI. SHOULD UNHCR REP FIND THAT THERE IS NO POSSIBILITY TO ASSURE NON-RETURN TO PHILIPPINES EXCEPT REMOVAL TO U.S., THIS WOULD BE MATERIAL CONSIDERATION IN POSSIBLE EVENTUAL DECISION TO RECOMMEND PAROLE TO INS. END. FYI.

4. IF MAYNIGO AND JUMAT UNABLE FOR ANY REASON ESTABLISH

CONTACT WITH UNHCR REP, EMBASSY AUTHORIZED TO ITSELF
BRING THEIR CASE TO ATTENTION OF UNHCR REP.

ROBINSON

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